

**Internal Revenue Service**  
4920DAL: EO Mandatory Review  
1100 Commerce Street  
Dallas, Tx 75242

Number: **200837043**

Release Date: 9/12/2008

UIL: 501.03-01

**LEGEND**

ORG = Organization name      XX = Date  
Address = address

Date: June 10, 2008

ORG  
ADDRESS

**Certified Mail**

Dear                               :

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code (IRC). It is determined that you are no longer recognized as exempt from Federal income tax under IRC section 501(c)(3), effective February 18, 20XX for the following reason(s):

You are not operated exclusively for exempt purposes as specified under IRC section 501(c)(3). You have not carried out any exempt-purpose activities since your inception in 20XX nor have you taken any meaningful actions to carry out any activities in the near future

Contributions to your organization are not deductible under IRC section 170.

You are required to file Federal income tax returns on the form indicated above. You should file these returns within 30 days from the date of this letter, unless a request for an extension of time is granted. File the returns in accordance with their instructions, and do not send them to this office. Processing of income tax returns and assessment of any taxes due will not be delayed because you have filed a petition for declaratory judgment under IRC section 7428.

If you decide to contest this determination under the declaratory judgment provisions of IRC section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination letter was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment. To secure a petition form from the United

**Department of the Treasury**

**Employer Identification No.:**

**Person to Contact:**

**Employee ID Number:**

**Tel:**

**Fax:**

**Form Required to be Filed:**

**Tax Years:**

**Last Day to File a Petition with the  
United States Tax Court:**

September 8, 20XX

States Tax Court, write to the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217.

You also have the right to contact the Office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance or you can contact your nearest Advocate's office, in this case by calling or writing to:

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

We will notify the appropriate State officials of this action, as required by IRC section 6104(c). You should contact your state officials if you have any questions about how this determination may affect your state responsibilities and requirements.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Marsha A. Ramirez  
Director, EO Examinations

Attachments:  
Publication 892



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service  
1100 Commerce Street  
Dallas, TX 75242

November 20, 2006

ORG  
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

Letter 3618 (04-2002)  
Catalog Number 34809F

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b> ORG		<b>Year/Period Ended</b> December 31, 20XX

**LEGEND**

ORG = Organization name      XX = Date      XYZ = State      City = city  
CO-1 = 1<sup>st</sup> company      CO-2 = 2<sup>nd</sup> company

**Issue:**

Should the above named organization retain their exemption under Section 501(c)(3) of the Internal Revenue Code?

**Facts:**

ORG was organized in October of 20XX as a non-profit corporation with the State of XYZ under the name of CO-1. The stated purpose of the organization in this original filing was to provide volunteer fire service to the City Community. In December of 20XX, the organization filed amended Articles of Incorporation with the state changing its official name to ORG and its stated purpose to "volunteer fire dept. to service the XYZ area. In August of 20XX, the organization amended its articles to reflect a change in its purpose to providing fire service to any city or government agency in need. In August of 20XX, the organization again amended its articles to include the proper clauses to meet the organizational requirements under I.R.C. Section 501(c)(3).

The organization filed an application for exemption under I.R.C. Section 501(c)(3) in February of 20XX. During the application process, the IRS requested the organization provide supplemental information detailing its past, present and future activities. The organization responded to this request by providing documentation stating "We gave help to all area fire dept. and we went out to people and kids to teach them how to get out of a fire and what to do and not to do."

Based in large part on its activities and legislative support provided in Rev. Ruling 74-361, the organization received a favorable determination and was granted exemption under 501(c)(3) effective February 18, 20XX.

Through interviews conducted with responsible officials during the examination process, it was learned that the organization has not carried out any exempt-purpose activities since its original organization in 20XX nor has it taken any meaningful actions to enable it to carry out these activities in the near future.

The organization does not have any formal or informal agreements to provide fire fighting or emergency services to any city or governmental agencies in XYZ.

The organization has not conducted any significant fire safety education or instruction for the benefit of the general public or community.

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The organization's membership is limited to only a few members and none of these individuals are certified fire fighters with the State of XYZ nor have they received any formal fire fighting training. In addition, none of these individuals are qualified to provide educational or instructional training to the general public.

The organization does not currently possess the required equipment necessary for carrying out fire fighting activities as a volunteer fire department.

According to information obtained from the State of XYZ, the organization's application for recognition and licensing as volunteer fire department was denied by the state in February of 20XX. This ruling was upheld by a Circuit Court decision in May of 20XX in response to an appeal filed by the organization. The court ruled that although ORG. may be organized as a private nonprofit organization, it is not a volunteer fire department or an organized fire department. It does not provide any fire services, lacks any trained fire fighters, and has not arrangements with any jurisdictions to provide any primary or secondary response services.

The organization does not maintain adequate books and records and was unable to produce any supporting documentation to substantiate its activities or financial transactions and throughout the examination process, the officers were uncooperative with agent's attempts to secure documentation and continuously altered facts concerning the organization's activities.

During course of examination, the agent was contacted by a third party who claimed to be a member of organization for 2 months during 20XX. This individual advised the agent that organization was not organized for legitimate, charitable purposes but did conduct fund raising activities, applied for Homeland Security Grants and received a donated fire truck from City of City. This individual also advised agent that he was contacted one of the officers of the organization regarding the examination and informed him that he was going to mislead agent by providing as little information as possible.

During course of examination, an investigative news report was broadcast by a local Fox News affiliate, CO-2. The report was largely based on information obtained from the same individual who previously contacted agent and claimed organization was formed for fraudulent purposes and highlighted the criminal backgrounds of the organizations' officers. The report also provided details about the recent arrest of the organization's president, who was charged with felony counts for impersonating a fire fighter and evading the police.

#### **Law and Analysis:**

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
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**IRC Section 501(c)(3)**, provides tax exemption for corporations and foundations that are operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

**Treasury Regulation Section 1.501(c)(3)-1(a)(1)**, states that in order to be exempt as an organization described in IRC Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

**Treasury Regulation Section 1.501(c)(3)-1(c)(1)**, states that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

**Treasury Regulation Section 1.501(c)(3)-1(d)(2)**, states in part that the term "charitable" is used in the generally accepted legal sense and includes advancement of education and lessening the burdens of government.

**Treasury Regulation Section 1.501(c)(3)-1(d)(3)(b)**, states that the term "educational" relates to the instruction of the public on subjects useful to the individual and beneficial to the community.

**Treasury Regulation Section 1.6001-1(c)**, states in part every organization exempt under 501(a) shall keep permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursement. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6003.

**Revenue Ruling 74-361, 1974-2CB 159**, indicates that an organization organized as a nonprofit volunteer fire company whose primary activity is fire fighting and rescue work, possess the necessary equipment to carry out these activities and is comprised of both employees and volunteers qualifies for exemption under IRC 501(c)(3) on the basis that the organization is lessening the burdens of government.

**Revenue Ruling 85-2, 1985-1CB 178**, indicates that a determination of whether an organization is lessening the burdens of government requires consideration of whether the organization's activities are activities that a governmental unit considers to be its burdens, and whether such activities actually lessen such governmental burdens. A favorable working relationship between

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Name of Taxpayer ORG		Year/Period Ended December 31, 20XX

the government and the organization is strong evidence that the organization is actually lessening the burdens of government.

### **Taxpayers Position**

The organization failed to submit an official protest or respond in any manner to the proposed revocation of its exempt status.

### **Government's Position:**

The organization has failed to meet the operational test described in Treasury Regulation Section 1.501(c)(3)-1(c)(1) above.

The organization was granted its favorable determination on the basis that it was properly set-up, equipped and currently conducting charitable activities which lessen the burdens of government and educates the public, as defined in Treasury Regulation Section 1.501(c)(3)-1(d)(2), above.

As stated in Treasury Regulation Section 1.501(c)(3)-1(c)(1), "an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3)." The organization has not conducted any meaningful exempt-purpose activities from its initial organization in 20XX to the present nor is it set-up to carry out these activities in future years.

The organization does not have any formal arrangements or working relationships with any governmental units to provide any fire fighting or emergency services. Therefore, it does not meet the requirements for exemption under IRC 501(c)(3), as indicated in Revenue Rulings 74-361 and 85-2, referenced above.

The organization failed to obtain the proper licensing and recognition as a volunteer fire department in the State of XYZ which prohibits the organization from legally conducting the activities for which its exemption is based upon.

The organization does not meet the required record keeping requirements set forth in I.R.C. Section 6033 and was unable to produce any records to substantiate its exempt-purpose activities.

Based on all facts and circumstance, it appears that this organization was never organized for charitable purposes and clearly, will be unable to conduct any meaning activities in the future as a volunteer fire department.

### **Conclusions:**



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This organization does not meet the operational test under IRC Section 501(c)(3). As a result, we are proposing revocation of its tax exempt status, effective as of February 18, 20XX.